



BOULT ■ CUMMINGS®
CONNERS ■ BERRY PLC

RECEIVED

2005 AUG 16

Henry Walker
(615) 252-2363
Fax (615) 252-6363
Email hwalker@boultcummings.com

T.R.A. DOCKET ROOM

August 16, 2005

Ron Jones, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

Re: *In Re: BellSouth's Petition to Establish Generic Docket to Consider Amendments
to Interconnection Agreements Resulting From Changes of Law*
Docket Number: 04-00381

Dear Chairman Jones:

Please accept for filing in the above-captioned proceeding the original and fourteen
copies of the Rebuttal Testimony of Steve Brownworth in behalf of ITC^DeltaCom
Communications, Inc.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:

Henry Walker

HW/djc
Enclosure

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded
via U.S. Mail, postage prepaid, to:

Guy M. Hicks
BellSouth Telecommunications, Inc.
333 Commerce Street, Ste. 2101
Nashville, TN 37201-3300

James Murphy
Boult, Cummings, Conners & Berry
1600 Division Street, Ste. 700
Nashville, TN 37203

Ed Phillips
United Telephone -Southeast
1411 Capitol Blvd.
Wake Forest, NC 27587


H. LaDon Baltimore
Farrar & Bates
211 7th Avenue North, Ste. 320
Nashville, TN 37219-1823

John Heitmann
Kelley, Drye & Warren
1900 19th Street NW, Ste. 500
Washington, DC 20036

Charles B. Welch
Farris, Mathews, et al.
618 Church Street, Ste. 300
Nashville, TN 37219

Dana Shafer
XO Communications, Inc.
105 Malloy Street, Ste. 100
Nashville, TN 37201

on this the 16th day of August, 2005.


Henry M. Walker

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

August 16, 2005

Re: Petition to Establish Generic Docket to)
Consider Amendments to Interconnection) Docket No. 04-00381
Agreements Resulting from Changes of Law)

**REBUTTAL TESTIMONY OF STEVE BROWNORTH
IN BEHALF OF ITC^DELTACOM COMMUNICATIONS, INC.**

1 **Q: PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.**

2 A: My name is Steve Brownworth. I'm the Vice President of Systems
3 Planning for ITC^DeltaCom Communications, Inc. My business address is
4 1791 O.G. Skinner Drive, West Point, Georgia 31833.

5
6 **Q: PLEASE DESCRIBE YOUR BUSINESS EXPERIENCE AND**
7 **BACKGROUND.**

8 A: I received a bachelor's degree with a major in Quantitative Methods from
9 the University of Illinois – Chicago in 1982. I have over 20 years of
10 telecommunications experience. My experience primarily lies in the
11 design and deployment of IXC and CLEC architecture.

12
13 I am responsible for the network architecture of the local and long-
14 distance voice network, data network (ATM/Frame/IP) and our fiber optic
15 transport network. In my role at ITC^DeltaCom, I've assisted other
16 companies in their initial network design and configurations including
17 SoLinc, PowerTel and Mindspring. These responsibilities include off-net
18 vendor management, the negotiation of contracts with ITC^DeltaCom's
19 IXC and CAP providers and determining how to best utilize the facilities
20 offered in the interconnection agreement in the ITC^DeltaCom network.

21
22 Prior to joining ITC^DeltaCom, I spent five years, 1989-1994, with MCI as
23 Sr. Manager, Network Design, managing strategic designs of their SONET

1 transmission deployment, real-time restoration and reliability plans,
2 dynamic switch routing and capital cost justifications. Prior to MCI, from
3 1982 to 1989, I held management positions with Telecom*USA,
4 SouthernNet and Telesphere, in switch network design, traffic
5 engineering, line cost, and provisioning.

6
7 **Q: HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS AUTHORITY?**

8 A: Yes.

9
10 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

11 A: The purpose of my testimony is to rebut BellSouth's testimony (primarily
12 Issues 2, 10, and 11) and to direct the Authority's attention to those issues
13 that are critical to DeltaCom's ability to comply with the TRO and TRRO
14 orders while still providing cost efficient telecommunications services to
15 consumers in Tennessee.

16
17 **Q: WHAT ISSUES ARE CRITICAL TO DELTACOM?**

18 A: Issue 11: the Cross Connect Fee. In DeltaCom's Petition for Mediation
19 and Dispute Resolution this is Issue 2. My company has proposed a
20 proprietary solution and has asked the Authority to mediate the issue,
21 specifically as presented by DeltaCom. We have existing UNE high
22 capacity loops and transport which are used to serve consumers in
23 Tennessee including state and local governments as well as private

1 industry. As more fully described in Mr. Watt's testimony, DeltaCom has
2 sought for some time an arrangement whereby DeltaCom could begin
3 moving existing UNE high capacity loops and transport away from
4 BellSouth to a third party provider rather than waiting until the generic
5 change of law case is concluded. BellSouth has refused to negotiate such
6 an arrangement. BellSouth has not only been unwilling to negotiate such
7 an interim arrangement, but it also has raised barriers to discourage
8 DeltaCom from moving such facilities.

9
10 BellSouth has not been willing to consider a reasonable non-recurring
11 charge for the disconnection of the high capacity loop or transport from
12 BellSouth's equipment in the central office to a third parties' equipment in
13 that same central office. In negotiations with BellSouth, its representatives
14 claimed that the non-recurring charge applicable to such changes is
15 contained in BellSouth's access tariff. Ms. Tipton in her direct testimony at
16 page 40 line 20-22 states that the language at Section 1.7 of Exhibit PAT-
17 1 applies for the transition of existing network elements and refers to
18 BellSouth's non-recurring charges in its access tariffs. Applying
19 BellSouth's tariffed non-recurring charges to the migration of high capacity
20 transport or loops from BellSouth to a third party provider results in a
21 windfall to BellSouth. BellSouth will be compensated for work that is not
22 performed. As noted in the attached diagrams (Exhibit SB-1), DeltaCom
23 seeks to migrate existing facilities away from BellSouth to a third party

1 provider where possible. The work performed in this scenario is within the
2 central office and no premise visit to the end user is required. Thus, the
3 CLEC to CLEC conversion charge which is currently contained in a large
4 number of BellSouth's interconnection agreements is the appropriate non-
5 recurring charge: **USOC UREWO \$130.47 (first NRC) \$ 40.11 (second**
6 **NRC).**

7
8 Given that we are forced to migrate these services due to a regulatory
9 change, it is highly inappropriate for BellSouth to be permitted to assess a
10 full installation or disconnection non-recurring charge as though a new
11 high capacity loop or transport was installed when in fact we are simply
12 reconnecting existing BellSouth facilities (e.g. a DS1 loop) to a third party
13 provider (e.g. a transport provider) in the same central office.

14
15 Also included in Ms. Tipton's Exhibit PAT-1 at Section 6.10 is a description
16 of a "Rearrangement" that appears to apply to the connection of a loop or
17 combination to another carrier's transport. BellSouth's description of a
18 "Rearrangement" states that if there is a change in CFA a Rearrangement
19 fee applies. In the past, BellSouth has applied a very narrow definition of
20 "Change in CFA". BellSouth's definition of a "Change in CFA" generally
21 means a rewiring of a DS1 connection within the same ACTL (or in
22 layman's terms a change for the same company) as opposed to changes
23 whereby DeltaCom could rewire the DS1 connection in that Central Office

1 to a third party. For example, a Change of CFA as defined by BellSouth
2 may not even cover moving DS1s within the same collocation. Worse, this
3 rearrangement fee would not apply when DeltaCom moves a DS1 loop off
4 of BellSouth multiplexing equipment to a DeltaCom collocation site in that
5 same BellSouth central office. BellSouth's position is that the DS1 loop
6 has to be disconnected and then reconnected at full FCC tariffed non-
7 recurring charges.

8
9 Reconnection of a facility from BellSouth to a collocation site is treated as
10 a disconnection of one service and establishment of a new service even
11 though the loop to the end user did not change.

12
13 BellSouth's proposed rearrangement language refers to a non-recurring
14 rate in Exhibit A, but I do not think that rate is not provided in Ms. Tipton's
15 testimony. Again, DeltaCom seeks a non-recurring charge that fits the
16 work activities to be performed and does not allow BellSouth excessive
17 recovery. The CLEC to CLEC non-recurring charge most closely fits the
18 type of charge that should be applied in this migration.

19
20 **Q: Ms. TIPTON STATES ON PAGE 6 LINES 10-12 THAT "NO ONE**
21 **ACTING IN GOOD FAITH COULD POSSIBLY THINK THE FCC**
22 **INTENDED TO ALLOW ANY CLEC TO WAIT UNTIL MARCH 10, 2006**
23 **TO SUBMIT ITS CONVERSION ORDERS." WHAT IS YOUR OPINION**

1 **OF THIS STATEMENT?**

2 **A:** We have worked in good faith with BellSouth on transitional language, but
3 we need immediate relief and assistance in moving off the BellSouth UNE
4 network now, not after BellSouth converts the loops and transport from
5 UNEs to FCC special access tariffed services or disconnects the service.

6
7 BellSouth is in a no-lose situation. If a CLEC wants to move off the
8 BellSouth network, without commingling language, we have to install new
9 services from the end-user customer to a collocation arrangement. We
10 also have to pay full non-recurring charges. The end result is that both
11 DeltaCom and BellSouth duplicate resources and efforts to re-install a
12 service to an end-user that hasn't asked for any changes and does not
13 require any changes to their service. BellSouth can delay cooperation and
14 convert the existing month-to-month UNEs to higher cost FCC tariffed
15 circuits with multi-year commitments. It is clear to me from my negotiations
16 with BellSouth that BellSouth is very willing to move a CLEC from UNE to
17 FCC special access services and is very unwilling to work with a CLEC to
18 move from UNE to a third party provider.

19
20 **Q: MS. TIPTON STATES ON PAGE 9 THAT BELL SOUTH MUST HAVE BY**
21 **DECEMBER 9, 2005 A SPREADSHEET IDENTIFYING THE**
22 **EMBEDDED BASE OF DS1 AND DS3 LOOPS TO BE CONVERTED.**
23 **WHAT IS YOUR OPINION OF THIS STATEMENT?**

1 A: DeltaCom has tried unsuccessfully to reach terms with BellSouth whereby
2 DeltaCom could begin moving away from BellSouth facilities as soon as
3 possible. What BellSouth does not tell this Authority is that what it really
4 wants is to lock CLECs into long-term volume agreements for FCC special
5 access services such that CLECs won't buy facilities from third parties. By
6 refusing to negotiate an interim arrangement, BellSouth knows that those
7 CLECs will be concerned that they will be caught with extremely high
8 month to month special access rates as of March 11, 2006, and therefore
9 will be forced into signing a volume/term agreement that effectively
10 prevents the CLEC from moving to another provider.

11
12 **Q: MS. TIPTON STATES THAT "THE CONVERSIONS CANNOT,**
13 **HOWEVER, BE LEFT TO THE LAST MINUTE, OR THE LAST DAY."**
14 **WHAT IS YOUR OPINION OF THIS STATEMENT?**

15 A: BellSouth has adamantly refused to negotiate an interim arrangement with
16 DeltaCom (even one subject to true-up) whereby DeltaCom could begin
17 (even before December of 2005) to move high capacity loops and
18 transport off of BellSouth. BellSouth negotiators state that BellSouth won't
19 negotiate "piecemeal" meaning either DeltaCom must sign BellSouth's
20 template language for TRO/TRRO or DeltaCom can pay full FCC non-
21 recurring tariffed charges to migrate these facilities as though an entirely
22 new facility is being installed. I find it disingenuous for BellSouth to throw
23 stones at the CLECs for not moving quickly enough when BellSouth is for

1 its own financial gain preventing CLECs from completing such migrations
2 early.

3
4 **Q: MS. TIPTON CONTINUING ON PAGE 6, LINES 14-18 STATES THAT**
5 **“BELLSOUTH IS COMMITTED TO WORKING WITH CLECS TO MAKE**
6 **THIS TRANSITION AS SEEMLESS AS POSSIBLE FOR THE CLECS**
7 **END USERS, BUT THE ONLY WAY THE PARTIES CAN ACCOMPLISH**
8 **THIS IF THE CLECS ARE WILLING TO COMMUNICATE WITH US AND**
9 **WORK COOPERATIVELY TO COMPLETE ALL THE NECESSARY**
10 **WORK BEFORE THE EXPIRATION OF THE TRANSITION PERIOD.”**
11 **PLEASE COMMENT ON THIS STATEMENT?**

12 **A:** ITC^DeltaCom has yet to see BellSouth make an attempt of seamlessly
13 transitioning our end-user customers served via high capacity loops and
14 transport. Ms. Conquest addresses the issues related to bulk migration of
15 UNE-P to UNE-L. Today, ITC^DeltaCom continues to transition
16 customers via the establishment of a totally new DS1 service and a
17 disconnection of the old DS1 service to the customer premise. Our
18 BellSouth account team's response to this has been we want you to stay
19 on the BellSouth network, at the full tariffed special access FCC rates.
20 BellSouth is willing to work on processes to move UNEs to the higher FCC
21 tariffed access rates but has been uncooperative in assisting us in moving
22 customers to the other options available to us (i.e. our own collocation or
23 that of another carrier).

1
2 Without Authority intervention, based on our experience, we fully expect
3 complete lack of cooperation from any organization within BellSouth in the
4 migration of our end-users to anything but the higher cost FCC tariffed
5 rates before March 10, 2006.
6

7 **Q: EXHIBIT PAT-1 SECTION 4.3.4 OUTLINES THE SERVICE ELIGIBILITY**
8 **CRITERIA FOR EELS. WHAT CONCERNS DOES DELTACOM HAVE**
9 **REGARDING THIS LANGUAGE?**

10 A: DeltaCom's proposed language regarding the service eligibility criteria for
11 EELs is contained in EXHIBIT SB-2 which highlights that the collocation
12 test can be satisfied by a reverse collocation site. Paragraph 605 of the
13 TRO states: " a requesting carrier satisfies this prong through reverse
14 collocation" and for purposes of this test, "we adopt SNIP LINK's definition
15 of all mutually-agreeable interconnection methodologies." As this
16 Authority is aware, from its consideration in the DeltaCom/BellSouth
17 arbitration (Issue 47), DeltaCom has reverse collocation sites with
18 BellSouth. Thirty of those reverse collocation sites are listed in Attachment
19 3 of the approved interconnection agreement. On July 26, 2005,
20 BellSouth stated that it would not permit DeltaCom to use existing reverse
21 collocation sites to meet this prong for purposes of service eligibility.
22 Exhibit SB-1 outlines the configuration that DeltaCom seeks for EELs that
23 are established through reverse collocation. (See Diagrams 3a and 3b).

1
2 **Q: WHAT LANGUAGE DOES DELTACOM PROPOSE FOR EELS?**

3 **A:** Exhibit SB-2 contains DeltaCom's proposed language that was provided
4 to BellSouth during the negotiations.
5

6 DeltaCom has also provided to BellSouth diagrams and a description of
7 the loop and/or transport configurations it seeks. The documentation
8 provided to BellSouth is attached as confidential Exhibit SB-1 to this
9 Petition. BellSouth has not provided a written response. I have updated
10 the diagrams in response to questions raised by BellSouth from our July
11 26th meeting with them. The revised diagrams were provided to BellSouth
12 on August 5th.
13

14 DeltaCom has included language that incorporates the TRO provisions on
15 EELs. DeltaCom has requested information on how to order under the
16 new TRO provisions. Because DeltaCom has not been able to place
17 orders for EELs under the new TRO Service Eligibility Criteria, DeltaCom
18 is not able to raise any issues or concerns regarding BellSouth's
19 implementation of these requirements. For example, BellSouth currently
20 has several reverse collocations with DeltaCom (See Attachment 3 of the
21 parties current Agreement). These sites should qualify as a "reverse
22 collocation" as outlined by the FCC in the TRO.
23

1 **Q: WHAT OTHER CRITICAL MATTERS MUST BE ADDRESSED FOR**
2 **DELTACOM TO COMPLY WITH THE TRO/TRRO REQUIREMENTS?**

3 A: DeltaCom has commingling language in its existing Georgia
4 interconnection agreement but unfortunately has not been able to include
5 the same language in its Tennessee interconnection agreement.
6 Commingling is important because DeltaCom cannot convert existing UNE
7 circuits to a mixture of UNE and wholesale/commercial services. Nor can
8 DeltaCom place orders today for new customers with a combination of
9 UNE and wholesale services.

10
11 **Q: ARE THERE ANY OTHER PROBLEMS WITH MIGRATING HIGH**
12 **CAPACITY LOOPS AND TRANSPORT?**

13 A: Yes. This Authority may recall from my testimony in the DeltaCom arbitration a
14 situation I described where another CLEC sought to place orders to a third party
15 collocation site. BellSouth rejected the orders saying that the CLEC had to order
16 special access not UNEs. BellSouth and DeltaCom ultimately settled Issue 11(b)
17 from our arbitration case. At least we thought so at the time. BellSouth agreed
18 to accept a Letter of Authorization (LOA). When DeltaCom tried to use the LOA
19 process to order UNEs to another carrier's collocation site, BellSouth rejected the
20 orders saying that each and every order has to be accompanied by a signed
21 LOA. The problem with BellSouth's position is covered in DeltaCom's Petition for
22 Mediation and Dispute Resolution at Issue 3 (Delivery of UNEs to Third Party
23 Collocation Site)

1
2 Providing a separately signed LOA for each order to the same collocation
3 is unduly burdensome and will prohibit CLECs from utilizing electronic
4 delivery of orders. Frankly, BellSouth's position on this issue is incredible.
5 A blanket LOA accomplishes the same purpose and does not create
6 unreasonable administrative burdens. Language relating to this issue that
7 should be included in the Agreement can be found at Exhibit SB-2.
8

9 **Q: DOES THE TRO REQUIRE BELL SOUTH TO PROVIDE NARROWBAND**
10 **SERVICES OVER IDLC LOOPS? IF OTHER ILECS HAVE IDENTIFIED**
11 **MEANS BY WHICH TO OFFER UNBUNDLED LOOPS CONVERTED**
12 **FROM IDLC WITHOUT ADDITIONAL ANALOG TO DIGITAL**
13 **CONVERSIONS, DOES BELL SOUTH RETAIN THE BURDEN OF**
14 **OFFERING THE SAME METHODS?**
15

16 **A:** ITC^DeltaCom included in its arbitration an issue relating to conversions of
17 IDLC loops to unbundled loops wherein the loop provided would not be
18 capable of fax, modem or dial up services. The parties negotiated
19 language that, at the time, captured what BellSouth claimed to be the only
20 identified technically feasible methods of providing the unbundled loop. In
21 reviewing pleadings related to the TRO, ITC^DeltaCom discovered some
22 carriers (including ILECs) filed comments that appear to indicate that this
23 problem has a technical solution and that some manufacturers have

redesigned equipment to address the issue. Language covering this issue is at Exhibit SB-2.

Q: SHOULD BELLSOUTH BE REQUIRED TO PROVIDE AN UNBUNDLED LOOP USING IDLC TECHNOLOGY TO ITC^DELTACOM THAT WILL ALLOW ITC^DELTACOM TO PROVIDE CONSUMERS THE SAME QUALITY OF SERVICE AS THAT OFFERED BY BELLSOUTH TO ITS CUSTOMERS?

A: Yes. IDLC is very important to ITC^DeltaCom now that UNE-P is no longer available. It is imperative that ITC^DeltaCom be able to order a local loop on behalf of the end user customer and that local loop should receive the same quality of service that BellSouth currently offers that same customer. In other words, BellSouth should not provide a degraded local loop to ITC^DeltaCom. By having access to IDLC technology or ensuring that there are no additional analog to digital (A to D) conversions, the end user consumer will be assured, when they move from one carrier to another, that they will have the same quality local loop.

Q: WHY IS THE ANALOG TO DIGITAL (A TO D) CONVERSION CONCEPT IMPORTANT?

A: Additional A to D conversions cause problems associated with quality voice call, fax, and dial-up Internet services. BellSouth's position seems

1 to be that if the loop meets the minimum voice grade standards for the
2 customer, regardless of quality of the local loop pre-conversion, it has met
3 its obligations to ITC^DeltaCom. However, the customer perceives and
4 experiences a degradation in service. Customers' typical experiences in
5 this regard include problems with modem speed on dial-up internet/data
6 services, fax, noise/static on the line and other quality issues.

7
8 It is important for the customer to receive the same level of service and
9 quality on the loop with BellSouth as with ITC^DeltaCom. The manner in
10 which BellSouth designs and manages the local network with respect to
11 CLECs does not allow parity at the customer level.

12
13 **Q: DOES THE TRO APPEAR TO ADDRESS THIS ISSUE?**

14 A: Yes. Footnote 855 of the TRO states that Telcordia has set forth means
15 by which ILECs can provide unbundled loops to CLEC over DLC systems
16 and that telecom manufacturers have designed equipment to take into
17 account the regulatory obligations. In the recent negotiations for a
18 TRO/TRRO amendment, DeltaCom asked whether BellSouth has
19 identified additional means by which a IDLC loop can be unbundled
20 without additional A to D conversions? BellSouth has not responded.

21
22 **Q: WHAT DO YOU SEEK FROM THIS AUTHORITY?**

23 A: I am asking this Authority to adopt an interim non-recurring charge as I

1 proposed earlier for the migration of high capacity loops and transport to
2 third party providers. The Authority should define rearrangements,
3 including the un-combining of loop and transport elements, as any rewiring
4 within the central office that does not require outside dispatch of BellSouth
5 resources to the end user customer.

6
7 The Authority should instruct BellSouth to make the migration of these
8 non-251 elements and the commingling of wholesale and UNE services to
9 be as simple as possible. At this point, BellSouth has not assigned or
10 given direction to either the BellSouth account team or other BellSouth
11 personnel the project of working with DeltaCom to move off the BellSouth
12 UNE network to an alternative provider as described in my testimony and
13 as illustrated in my diagrams (Exhibit SB-1).

14
15 **Q: DOES THIS CONCLUDE YOUR TESTIMONY?**

16 **A:** Yes.